

REMARKS

I. Introduction

This Amendment is a full and timely response to the non-final Office Action of August 10, 2005. Claims 1-64 are pending in this application. Claims 1, 5, 8, 9, 15, 18, 19, 27, 28, 35, 42, 43, 53, and 64 have been amended. No new matter has been added. In addition, a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) is concurrently filed with this response. A Petition for One-Month Extension of Time and fee are also concurrently filed herewith.

II. Specification and Claim Objections

The Office Action has objected to the use of “owf” in the Specification. Clarification as to this acronym has been made, and submitted in the Amendments to the Specification.

The Office Action has objected to the spelling of “greige.” This error has been corrected.

III. REJECTION OF CLAIMS 1, 4-5, 9, 10, 15, 19, 24, 28, 33, 36, 41, 43-45 UNDER U.S.C. § 112

The Examiner rejected claims 1, 4-5, 9, 10, 15, 19, 24, 28, 33, 36, 41, 43-45 under 37 C.F.R. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. Office Action, p. 2, paragraphs 3-4. This rejection is respectfully traversed for at least the reasons below.

The Office Action objects to the phrase “inherently flame resistant fibers that were uncrystalized in fiber form” in claims 1, 9, 19, 28, 36, and 43. Office Action, p.

2, paragraph 5. Independent claims 1, 9, 19, 28, 36, and 43 have been amended to clarify that the “inherently flame resistant fibers are capable of crystallization.” As supported by the Applicants’ specification, “the inherently flame resistant fibers are normally uncrystallized in fiber form prior to dyeing or other processing. ... These fibers normally are crystallized, however, by the high temperatures conventionally used to dye such fibers. This crystallization is helpful both in dye retention and in resistance to shrinkage.” Page 8, lines 3-12. This particular rejection of claims 1, 9, 19, 28, 36, and 43 is believed to be traversed.

The Office Action objects to claims 4, 9, 10, 24, 33, 41, 44, and 45 with respect to the element “dye assisting agent.” Office Action, p. 3, paragraph 6. However, the Applicants’ specification addresses examples of inclusion of a dye assistant “even where the inherently flame resistant and/or flame resistant cellulosic fibers are not to be dyed.” Page 9, lines 9-11. Therefore, there is no need for an antecedent basis for a dye when, in some instances, dye is not used. This particular rejection of claims 4, 9, 10, 24, 33, 41, 44, and 45 is believed to be traversed.

The Office Action objects to claims 5, 15, and 19 with respect to the element “phosphorous flame retardant.” Office Action, pp. 3-4, paragraph 7. Claims 5, 15, and 19 have been amended with the element “wherein the cellulosic fibers contain a phosphorus compound flame retardant in a concentration of at least approximately 1.4% phosphorus by weight of cellulosic fiber component,” or a similar element, to clarify the basis for this element. This particular rejection of claims 1, 15, and 19 is believed to be traversed.

IV. REJECTION OF CLAIMS 1-3, 6-7, 28-32, 34, 36-40, 43, 46-49, 51-52, 54 AND 54-60 UNDER 35 U.S.C. 102

The Examiner rejected claims 1-3, 6-7, 28-32, 34, 36-40, 43, 46-49, 51-52, 54 and 54-60 under 37 C.F.R. § 102(b) as being anticipated by *Tanaka, et al.* (5,356,700) (hereinafter “*Tanaka*”). Independent claims 1, 28, 36, and 43 have been amended as described above. For at least the following reasons, this rejection is respectfully traversed.

Tanaka relates to an aromatic polyamide fiber – polyester blend of fabric. In the embodiments disclosed by *Tanaka*, the fabric blend always includes both a first fiber component and a second fiber component. The first fiber component contains a blend of aromatic polyamide fibers and cellulose, but the second fiber component always contains a polyester fiber. *Tanaka* discloses the use of polyester fiber with the first fiber component to provide “form-retaining properties and dimensional stability....” Col. 2, lines 20-23. The Applicants’ claimed invention does not require use of a polyester fiber component. The Applicants’ claimed invention relates to a fire resistant fabric capable of being dyed without substantially losing its flame retardant characteristics. *Tanaka* does not teach or suggest the desirability of dyeing or coloring a fabric blend as claimed by the Applicants without loss of flame retardant characteristics.

The differences between *Tanaka* and the Applicants’ claimed invention demonstrate that the Applicants’ claimed invention should be allowable over the cited reference.

V. REJECTION OF CLAIMS 4, 9-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56 AND 64 UNDER 35 U.S.C. 103

The Examiner rejected claims 4, 9-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56 and 64 under 37 C.F.R. § 103(a) as being unpatentable over U.S. Patent No. 5,356,700 to *Tanaka* and further in view of U.S. Patent No. 5,306,312 to *Riggins, et al.* Independent claim 9 has been amended as described above. As described above, *Tanaka* relates to an aromatic polyamide fiber – polyester blend of fabric. The Applicants' claimed invention does not require use of polyester fiber component. The Applicants' claimed invention relates to a fire resistant fabric capable of being dyed without substantially losing its flame retardant characteristics. *Tanaka* does not teach or suggest the desirability of dyeing or coloring a fabric blend as claimed by the Applicants without loss of flame retardant characteristics. For at least the above reasons, this rejection is respectfully traversed.

Since dependent claims 4, 10-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56, and 64 are ultimately dependent on at least one of the independent claims 1, 9, 28, 36, 43, and 54, for which arguments of patentability have been advanced above, then these dependent claims should also be allowable over the cited references.

VI. DOUBLE PATENTING

The Office Action rejected claims 1-64 under the judicially created doctrine of double patenting over claims 1-57 of U.S. Patent No. 6,626,964, claims 1-30 of U.S. Patent Number 6,132,476, and claims 1-26 of U.S. Patent No. 6,818,024. Office Action, pp.

6-7, paragraphs 18-20. The undersigned attorney for the Assignee submits the enclosed terminal disclaimer under 37 C.F.R. 1.321(c) to overcome the double patenting rejections. Claims 1-64 are now believed to be in condition for allowance.

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double patenting rejections. Claims 1-64 are now believed to be in condition for allowance.

CONCLUSION

Claims 1-64 are pending in the application. The Office Action rejections are believed to be traversed by the present amendment and response. Claims 1-64 should now be in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6048 if such contact will facilitate a Notice of Allowance for claims 1-64. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



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